

# HOUSE BILL REPORT

## HB 1424

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to rainwater collection facilities.

**Brief Description:** Authorizing the department of ecology to adopt rules regulating certain rainwater collection facilities.

**Sponsors:** Representatives McCoy, VanDeWege and Chase.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/12/07, 2/21/07 [DPS].

### Brief Summary of Substitute Bill

- Requires the Department of Ecology to adopt rules specifying the conditions that rainwater collection facilities over 3,000 gallons may be constructed and operated.
- Exempts permitting rainwater collection of less than 3,000 gallons on a single residential property when the rainwater is intended to be put to beneficial use.
- Specifies that a water right does not result from the collection of rainwater.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Dickerson, Eickmeyer, Grant, Kagi, Lantz, McCoy and VanDeWege.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Hailey, Newhouse, Orcutt and Strow.

**Staff:** Jaclyn Ford (786-7339).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Department of Ecology (DOE) permits the appropriation of water for beneficial use. Construction projects such as building ditches or canals are also permitted through the DOE.

Reservoir permits, also known as secondary permits, are also regulated by the DOE. These permits include the collection of both surface water and underground water sources for use as part of an underground artificial storage and recovery project.

Reservoir permits do not include facilities that capture and reuse return flow from irrigation operations serving a single farm under an existing water right, under the same acreage. Small lined irrigation impoundments less than 10 acre-feet in volume are also exempt from reservoir permits.

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### **Summary of Substitute Bill:**

The collection of less than 3,000 gallons of rainwater on a single residential property is exempt from requiring a permit from the DOE if the water is intended to be put to beneficial use on the property where it was collected.

A water right is not required for the collection and use of less than 3,000 gallons of rainwater.

The DOE will adopt rules or issue general permits specifying conditions under which facilities collecting over 3,000 gallons of rainwater may be constructed and operated. The rules will take into consideration the protection of existing water rights, water quality, and water quantity. The rules or general permits may address specific geographic areas. Annual rainfall, population density, and the impact from runoff on the natural hydrology will also be considered in the rules. In developing the rules, the DOE will work with a broad group of parties to ensure understanding.

A water right is not required for the collection and use of more than 3,000 gallons of rainwater.

The DOE will either initiate rulemaking or issue general permits, or both by August 1, 2007. The DOE will report to the Legislature by December 31, 2008 on the implementation of their rules.

### **Substitute Bill Compared to Original Bill:**

This bill combines House Bill 1423 into House Bill 1424, and increases the amount of exempt rainwater to 3,000 gallons.

The exemption for island communities has been removed, but it requires the DOE in its rule making to give priority to islands and urban areas that discharge directly into saltwater. This bill gives the DOE the option to issue general permits, and also speeds up the timeframe for the DOE to issue permits or adopt general rules, or both.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) Exempt wells do not require a water right, and this is leading to an over-tapped aquifer. Therefore, having to own a water right to collect rainwater does not make sense. Collecting rainwater is self-limiting. When water is utilized from the aquifer, the in-stream flow amounts decrease. The capture and use of rainwater on a large-scale could impact water rights and in-stream flows. Requiring the water use to remain on the same property as it is collected will eliminate the selling of rainwater. The section in the current bill regarding island communities is not necessary.

(Concerns) House Bill 1423 and House Bill 1424 should be one bill, instead of two. Current rain collection facilities may not be able to comply with the rules the DOE creates and this would be economically detrimental to those businesses.

(Opposed) The water right exemption is unclear. Uses outside of residential uses should be included. The Legislature should look at the uses of water, instead of limiting the amount of water to an arbitrary number of gallons. The amount of the water should not be the issue; the focus should be the method of use.

**Persons Testifying:** (In support) Representative McCoy, prime sponsor; Tam Seasholtz; Bernie Buday, Olalla Grange; and Ken Slattery, Washington Department of Ecology.

(Concerns) John Stuhlmiller, Washington Farm Bureau.

(Opposed) Kathleen Collins, Washington Water Policy Alliance; and Don Whiting, Washington State Grange.

**Persons Signed In To Testify But Not Testifying:** Bruce Wishart, People for Puget Sound; Steve Robinson, Northwest Indian Fisheries Commission; Mo McBroom, Washington Environmental Council; and Bill Clarke, Washington Realtors and Washington Public Utilities Association.